International Criminal Court ICC-ASP/2/L.1

# Assembly of States Parties

Distr.: Limited
21 April 2003

Original: English

**Second session**
New York
8-12 September 2003

## Establishment of an international criminal bar

### Note by the Secretariat

1. At the 6th meeting of the Assembly of States Parties to the Rome Statute, on 3 February 2003, the President informed the Assembly that, following consultations with the Bureau, he had appointed Mr. Hans Bevers (Netherlands) to act as focal point on the establishment of an international criminal bar and to report thereon to the Bureau.

2. The report submitted by the focal point to the Bureau appears in the annex to the present note.

3. At its 11th meeting, on 22 April 2003, the Assembly, on the basis of the report of the Bureau, decided to inscribe on the provisional agenda of its second session an item concerning the establishment of an international criminal bar.

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# Annex

## Report of the focal point appointed by the President of the Assembly on issues related to an international criminal bar

### A. Introduction

1. In June 2002, during a conference held in Montreal, several hundred lawyers from all parts of the world decided to create an international criminal bar for the International Criminal Court (ICC). The main purpose of the International Criminal Bar (ICB) is to promote the function of independent and professional counsel before the Court as a fundamental element of an effective, fair and independent ICC. The newly created body will strive to strengthen the organizational position of counsel for the defence and for victims before the Court. To that end, ICB intends to be recognized by the Assembly of States Parties in the context of rule 20, paragraph 3, of the Rules of Procedure and Evidence and thus become the Registrar's counterpart in matters relating to legal representation before the Court, such as consultations on a code of conduct and the management of legal assistance.

2. At its tenth session, in July 2002, the Preparatory Commission for the International Criminal Court welcomed this development and decided to appoint Mr. Hans Bevers as its focal point on issues related to an international criminal bar. It furthermore recommended "that the Assembly of States Parties await any further developments on this issue, including the finalization of the constitution of this body, before taking further steps in accordance with rule 20 (3) of the Rules of Procedure and Evidence, and to this end include this item on its agenda at the appropriate time."[1]

3. At the first session of the Assembly, in September 2002, the President of the Assembly appointed Mr. Bevers to continue as focal point and report on developments to the Bureau

### B. Report of the first ICB Assembly

4. On 21 and 22 March 2003, ICB held its first General Assembly session in Berlin. Approximately 250 lawyers from all parts of the world and from all legal traditions, many representatives of bars and law societies, of associations of counsel and of civil society, as well as many individual counsel participated in the session. The Assembly was opened by a representative of the International Criminal Court, who stated that, even for its preparatory activities, the Court would need a recognized counterpart from the side of the legal profession as soon as possible.

5. After some minor amendments, the Assembly adopted by consensus the Constitution of the International Criminal Bar, thus enabling the formal establishment of the Bar at The Hague. In addition, a 42-member Council and a 7-member Executive Committee were elected, and a number of other organizational decisions were taken.

6. Members of the Council include representatives of bars and law associations from 20 States from all continents, representatives of Arab, European, North American and worldwide associations of counsel, individual members from Africa (3), Europe (2), Latin America (1) and North America (1), and representatives of

NGOs in the field of human rights, victims' rights, peace and security, as well as the Coalition for the International Criminal Court. The even wider range of organizations which put forward candidates seems to be a clear indication of the support and commitment ICB may obtain from those sides. The Executive Committee consists of seven widely experienced lawyers, managers and advocates, most of whom have been involved in ICC and ICB developments for a long time and were elected by the Council by consensus. They are: Élise Groulx (International Criminal Defense Attorneys Association), Paul-Albert Iweins (Paris Bar), Jeremy Gauntlett (General Council of the Bar of South Africa), Jeroen Brouwer (Council of the European Bar Associations), Eberhard Kempf (German Bar Association), Federico Bucci (Bar of Rome) and Jean Degli (individual member, Togo). The Executive Committee members will remain in office for two years, except for Mr. Bucci, who will be replaced by Sergey Popov (Russian Federation) in March 2004.

7. In addition to the Executive Committee, a number of regional focal points were appointed in order to enhance representation from those regions of the world that are still considered underrepresented, in particular the Americas, Africa, the Arab region and Asia.

8. The special committees on training, on a code of conduct and on legal assistance, which were set up at the ICB Steering Group meeting in November 2002, will continue their work in a formalized structure and a new committee on victims' representation is being set up. The ICB draft code of conduct for counsel will be discussed in May at a round-table meeting with representatives of other interested legal associations, such as the International Bar Association, the Council of the European Bar Associations and the International Association of Prosecutors, and the ICC.

## C. Focal point's evaluation and perspective

9. Following the ICB General Assembly session, two possible matters of concern remain. First, as far as geographical representation is concerned, participation is widespread although not yet entirely universal; this is especially the case for the Executive Committee. Whereas the Council is composed of a well-balanced mix of representatives from over 20 States from all parts of the world, the Executive Committee elected by the Council seems a little out of balance, with five members from Europe and North America and two from Africa. This lack of balance has been acknowledged, has been accepted by the Council for a transitional period and has already led to further action: as a link between the Executive Committee and the underrepresented regions, regional focal points have been appointed in order to enhance participation from those regions. In addition, in one year, one of the European members of the Executive Committee will be replaced by a representative from Asia.

10. Secondly, the procedural side of the process of decision-shaping and decision-making has until now not always been professional, which has sometimes led to a lack of transparency. This was mainly due to the fact that, until the Berlin session, the ICB work had always been prepared and carried out by volunteers only. Now that the establishment of the International Criminal Bar has been formalized by the

adoption of its Constitution, the organization will be able to further professionalize its internal structure.

11. In the light of the above, the focal point requests the Bureau of the Assembly of States Parties to place on the provisional agenda for its second session in September 2003 the question of the recognition of ICB by the Assembly. The Court is in urgent need of a recognized counterpart in order to enhance the legitimacy of its preparatory work relating to the position of counsel, and support for ICB, especially in the legal profession, is widespread. Furthermore, there are no alternative organizations to be recognized as such. ICB has reached a point where it deserves the support of the Assembly of States Parties to further develop and professionalize its organization.

*Notes*

[1] PCNICC/2002/2, para. 14.